

**Important Notice Regarding Underpayment Penalty
August 12, 2003**

The Louisiana Department of Revenue has issued billings for underpayment of individual income taxes for the 2002 tax year. Due to present computer system constraints, these billings designate the penalty as a “negligence penalty” rather than as an “underpayment penalty.” Billings made after the Department completes conversion to its new integrated tax computer system, “DELTA” (Defining Excellence in Louisiana Tax Administration), will carry the designation, “underpayment penalty.”

Computation of the penalty for underpayment of the individual income tax is provided for in [Revenue Information Bulletin No. 03-007](#) issued on June 4, 2003. A simple calculation method is being used for the 2002 tax year. However, the method prescribed by R.S. 47:118 may be used to calculate the penalty instead of the simple method provided by RIB No. 03-007 if the taxpayer prefers. If the penalty is calculated using the method prescribed by statute, a letter containing explanation of the revised computation of the penalty should be attached to the billing when payment of the penalty is remitted.

Under **Act 1138 of the 2003 Regular Session of the Louisiana Legislature** (effective July 2, 2003), the Secretary of Revenue may waive all or part of the underpayment penalty if an application for waiver is submitted to the Department on or before December 31, 2003. The application must show that the individual acted in good faith in failing to make the estimated payments. With the exception of situations when, in the opinion of the Secretary, the individual acted with intentional disregard, the Secretary may presume the individual acted in good faith under one of the following conditions:

- (1) the failure to make the estimated payment was attributable to extraordinary circumstances beyond the individual's control; or
- (2) the individual made a declaration and paid estimated tax in accordance with Revised Statute 47:116, 117, and 117.1 before the due date of the return without regard to any extension of time.

Requests for waiver of the underpayment penalty may be submitted by letter or by using [Form R-20128, Request for Waiver of Penalties for Delinquency](#). The taxpayer's social security number should be included in the request for the penalty waiver.

The Secretary's authority to waive the underpayment penalty as provided by Act 1138 is only applicable for tax periods beginning between December 31, 2001 and January 1, 2003.

Act 1138 is available on the legislature's website at www.legis.state.la.us.